

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JOE MASSARO,

Plaintiff,

-against-

BILL PITTS, JR.,

Defendant.

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APPEARANCES:

For Plaintiff: Fredric M. Gold, Esq.  
Frederic M. Gold PC  
450 Seventh Ave  
New York, NY 10123

For Defendant: No appearances.

SEYBERT, District Judge:

In this diversity case, Plaintiff Joe Massaro sued Defendant Bill Pitts, Jr. for breach of contract. Plaintiff moved for a default judgment, and Magistrate Judge William D. Wall issued a Report & Recommendation (the "R&R") recommending that a default judgment be entered and that Plaintiff be awarded \$35,716.22 in damages and \$350 in costs. (R&R 1.) Although Judge Wall's R&R is thorough and well-reasoned, the Court declines to adopt it at this time. Instead, Plaintiff, whose Complaint alleges a contract claim worth approximately \$35,000 (Compl. ¶¶ 6, 20), is ORDERED TO SHOW CAUSE why the Court should not dismiss this case for lack of subject matter jurisdiction. Specifically, it seems that the amount in controversy in this

MEMORANDUM & ORDER  
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action is well below the \$75,000 threshold required for federal diversity jurisdiction. See 28 U.S.C. § 1332.

Within twenty-one days from the date of this Order, Plaintiff shall show cause why his case should not be dismissed. His motion for a default judgment (Docket Entry 4) is DENIED with leave to renew pending the Court's decision concerning subject matter jurisdiction. If Plaintiff renews his motion for a default judgment, the Court will reconsider Judge Wall's R&R without further briefing from either party.

SO ORDERED.

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.

Dated: September 15, 2011  
Central Islip, New York